

**UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA**

STEFAN GOLDBERGER,

Plaintiff )

V.

VERDE ENERGY USA, INC.,

Defendant )

**Case No.:**

## COMPLAINT AND DEMAND FOR JURY TRIAL

## COMPLAINT

STEFAN GOLDER (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against VERDE ENERGY USA, INC. (“Defendant”):

## INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

## JURISDICTION AND VENUE

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant conducts business in the Commonwealth of Pennsylvania and as such, personal jurisdiction is established.

1           4.     Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

2                                   **PARTIES**

3           5.     Plaintiff is a natural person residing Milton, Pennsylvania 17847.

4           6.     Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

5           7.     Defendant is a corporation that has its office located at 101 Merritt 7,  
6  
7 2<sup>nd</sup> Floor, Norwalk Connecticut 06851.

8           8.     Defendant is a “person” as that term is defined by 47 U.S.C.  
9 §153(39).

10          9.     Defendant acted through its agents, employees, officers, members,  
11  
12 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
13 representatives, and insurers.

14                                   **FACTUAL ALLEGATIONS**

15  
16          10.    Plaintiff has a cellular telephone number that he has had for more  
17 than one year.

18          11.    Plaintiff has only used this number as a cellular telephone number.

19          12.    The phone number has been assigned to a cellular telephone service  
20  
21 for which Plaintiff incurs a charge for incoming calls.

22          13.    Beginning in early February 2015, and continuing thereafter,  
23 Defendant called Plaintiff on his cellular telephone number.  
24  
25

1           14. When contacting Plaintiff on his cellular telephone, Defendant used an  
2 automatic telephone dialing system and automatic and/or pre-recorded messages.

3           15. Defendant's telephone calls were not made for "emergency  
4 purposes."

5           16. Plaintiff never provided permission to Defendant to call his cellular  
6 telephone number or to contact him regarding any goods or services offered by  
7 Defendant.  
8

9           17. Defendant called Plaintiff, on average, one (1) to three (3) times a day  
10 on his cellular telephone number.  
11

12           18. In April 2015, Plaintiff spoke with Defendant and requested to be  
13 transferred to a supervisor, where he told the supervisor that he wanted Defendant  
14 to stop calling him.  
15

16           19. Defendant heard and acknowledged Plaintiff's instructions to stop  
17 calling, as Defendant's supervisor told Plaintiff that his number would be placed  
18 on the "Do Not Call" list.  
19

20           20. Defendant, however, never put Plaintiff on the "Do Not Call" list and  
21 did not restrict calls to his cellular telephone number; rather, Defendant continued  
22 to call Plaintiff on his cellular telephone without his prior, express permission.  
23

24           21. Most recently, Defendant called Plaintiff on his cellular telephone  
25 number on May 7, 2015.

**DEFENDANT VIOLATED THE  
TELEPHONE CONSUMER PROTECTION ACT**

22. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.

23. Defendant initiated multiple automated telephone calls to Plaintiff's cellular telephone using a prerecorded voice.

24. Defendant initiated these automated calls to Plaintiff using an automatic telephone dialing system.

25. Defendant's calls to Plaintiff were not made for emergency purposes.

26. Defendant's calls to Plaintiff, in and after February 2015, were not made with Plaintiff's prior express consent.

27. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

28. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

29. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles damages.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, STEFAN GOLDER, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
- b. Statutory damages of \$500.00 per violative telephone call pursuant to 47 U.S.C. § 227(b)(3)(B);
- c. Treble damages of \$1,500.00 per violative telephone call pursuant to 47 U.S.C. § 227(b)(3);
- d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);
- e. Any other relief deemed appropriate by this Honorable Court.

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, STEFAN GOLDER, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: July 1, 2015

KIMMEL & SILVERMAN, P.C.

By: /s/ Craig Thor Kimmel  
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